MINUTES

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY

MEETING OF THE BOARD OF DIRECTORS
April 26, 2012 – 2:00 p.m.
San Carlos Library Conference Room A/B

1. Roll Call:

CTO 2:01 p.m.

Roll Call Attendance:

Agency	Present	Absent	Agency	Present	Absent
Atherton		X	Menlo Park	X	
Belmont		X	Redwood City	X	
Burlingame	X		San Carlos	X	
East Palo Alto	X		San Mateo	X	
Foster City	X		County of San Mateo	X	
Hillsborough	X		West Bay Sanitary District	X	

2. Public Comment

Persons wishing to address the Board on matters NOT on the posted agenda may do so.

Each speaker is limited to two minutes. If there are more than five individuals wishing to speak during public comment, the Chairman will draw five speaker cards from those submitted to speak during this time. The balance of the Public Comment speakers will be called upon at the end of the Board Meeting.

If the item you are speaking on is not listed on the agenda, please be advised that the Board may briefly respond to statements made or questions posed as allowed under The Brown Act (Government Code Section 54954.2). The Board's general policy is to refer items to staff for attention, or have a matter placed on a future Board agenda for a more comprehensive action or report and formal public discussion and input at that time.

None

Chair Porter presented Brian Moura with a service award for his years of service to the SBWMA.

3. Approval of Consent Calendar:

Consent Calendar item(s) are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless members of the Board, staff or public request specific items be removed for separate action. *Items removed from the Consent Calendar will be moved to the end of the agenda for separate discussion*.

A. Adopt the March 22, 2012 BOD Meeting Minutes
B. Receipt of Recology and SBR Monthly Reports

M/S: Moura/Gibbons
Voice Vote: All in favor, Atherton and Belmont absent

4. New Business:

A. Update on Next Steps for Strategic Plan 2013-2020

Executive Director McCarthy gave an update on the Strategic Plan. He noted that in the draft FY2013 draft budget there would be a work plan outlined for the long range plan which will be the implementation document that supports the Strategic Plan.

Vice Chair Nava asked if staff had any idea of what the budget numbers for producing a long range plan document might be.

Executive Director McCarthy noted that essentially it will be any costs beyond staff time, adding that it is likely we will use consultant support for the long range plan, and the budget would include costs of that nature.

B. Rate Setting Process and Rate Projections

Staff Moran and Staff Feldman gave a Power Point presentation on the following topics:

- Overview of the rate setting process
- Recology revenue reconciliation for 2011
- 2012 compensation application process for 2013 rates
- Recology specific rate-related issues for 2013 rates
- Pass-through costs in 2013 revenue requirement
- Other factors affecting Agencies rates for 2013
- Fiver year cost projection model

Vice Chair Nava questioned how intensive the HF&H audit process would be, and if once the reports are complete all of the agencies would have confidence that the work Recology is doing is being done correctly.

Staff Moran answered that the audit would include everything that Recology reports on, for all 12 agencies, and that records would be reviewed for select months. The entire report would include findings on billing rates, and accounts for all 12 agencies.

Member Moura suggested that the Board ask HF&H to present their findings at a future Board meeting.

Member Galli asked for confirmation regarding the reconciliation process, noting that the Board was reconciling 2011 rates, but that any surplus plus or shortfall would go into the 2013 rates. She also asked when any interest would be incurred.

Staff Moran answered that there is interest as of January 1, 2012, if an agency owes money.

Member Moura suggested that the Power Point slide regarding individual agency rates be stated clearer, noting that it may look like the SBWMA sets individual member agency rates. He also suggested that arrows connecting how tip fees are connected on page 5 of the presentation would make it clearer.

Vice Chair Nava suggested that the San Carlos franchise fee be clearer on the slide as well.

Vice Chair Nava asked if SBWMA staff would be available to come out to each member agency and answer questions about the rate report.

Staff Moran answered that the Member Agencies would be getting the draft rate report at the same time as staff, so there would additional time this year to get questions answered earlier. With the hope that by the time the September 1 report is out, most questions will be answered. He also noted that staff would be available to help member agencies as much as possible.

Vice Chair Nava asked for further explanation of the differences between route hours versus route labor hours.

Staff Feldman answered that route hours are how long the trucks are on the routes, and route labor hours are the people on the trucks on any given route. He also added that this is one of the areas that HF&H looked at during the collection services and facility operations audit, and that the results of that would be shared at the next Board meeting.

Vice Chair Nava noted that the revenue requirement is approved at the beginning of the year, and during the subsequent year accounts fluctuate. He then asked how that is reconciled at the end of the year.

Staff Feldman stated that the contract is a fixed cost contract, the way that it is structured is each Agency is responsible for the costs that are approved at the beginning of the year. If service levels change over the course of a year, it will result in a surplus or shortfall, which is why revenue reconciliation is so important.

Vice Chair Nava stated that this didn't answer his question. He asked if Burlingame has a 5-10% drop in accounts, Recology isn't going out to pick up those accounts anymore, therefore costs associated with those routes should go down. He asked for further explanation of how those accounts are reconciled, or are the agencies still responsible for the revenue requirement.

Staff Feldman answered that agencies are responsible for the revenue requirement approved at the beginning of the year because that is the definition of a fixed price contract. He noted that if the reverse happened and commercial activity went up 10%, Recology would still only get their revenue requirement, and the Agency would have increased revenue, noting that it works both ways.

Vice Chair Nava asked the Board Members if they had the understanding that the cost structure would work that way.

Member Galli answered yes, and asked for clarification regarding the part of the contract that states if activity varies more than a certain percentage an Agency can petition to reopen the contract.

Staff Feldman answered that a 2% fluctuation in operating costs triggers a compensation review, and noted that there are other specific triggers in the contract that prompt review, but added that there weren't grounds for a general compensation review. He also commented that one of the purposes of the contract is to manage risks on both sides, which will lead to rate stability and predictability.

Vice Chair Nava commented that he would like the fixed cost contract to be a point of discussion at the elected officials briefing in May.

Staff Moran added that SBR's contract is similar to Recology's but that their total payment is variable. He added that the rate per ton is adjusted by CPI index, but they are paid on a per ton basis.

Staff Moran continued with the preliminary results portion of the presentation.

Vice Chair Nava asked if the numbers included 2010 numbers.

Staff Moran answered that 2010 was Allied, and these numbers have nothing to do with Allied, only Recology.

Member Masbad about the operating ratio for schedule Q costs.

Mark Arsenault of Recology answered that it's a 9 ½% operating ratio based on the original proposal. That does not mean that we're making 9 ½% profit.

Staff Feldman added that most of schedule Q is back yard service, and Recology doesn't see any of that profit because there is a 20% clause in the contract that says the agencies keep the revenue of the first 20% of backyard subscriptions. He added that this line item is almost a pass through.

Vice Chair Nava stated that Franchise Agreements are between member Agencies and the Company. He asked if an individual agency can renegotiate with Recology separate from the JPA.

Staff Feldman stated that this was a legal counsel question, then noted that there are certain aspects of the contract that are so intertwined that it would be difficult at best, but there are other aspects that an agency could renegotiate.

Counsel Lanzone answered that yes, it's a contract between two parties, and those two parties can renegotiate, but noted that once it's opened everything is on the table.

Member Nava asked for further detail on what service level adjustments mean to the contract.

Staff Feldman answered that due to timing of when the proposal was written, and in fairness to both the Agencies and the Company, there needed to be a reestablishing of actual service levels. He noted that the proposal was written in 2008, the contract didn't start until 2011, and it didn't make sense to fix the costs based on service levels in 2008. So service levels were looked at in 2010 to set the costs for the first year of the contract. He noted that in 2 of the 3 categories the service levels went down which benefited the Agencies. The second and final service level adjustment is based on this year's levels; it will be applied to next year's rates, and will be fixed base costs for the remaining years of the contract.

Member Masbad asked how the 2013 service level adjustment would be allocated.

Staff Feldman answered that the service level adjustments affects the aggregate costs for all agencies. He added that this is part of the contract that was approved to go out as part of the RFP in 2007.

Vice Chair Nava stated that if the contract is not working the Board may need to look at it differently. He stated that if the Board wants to look at it by individual jurisdiction whether its complex or not, we should be able to do that.

Staff Feldman answered that this is why staff is bringing this up well in advance of rate season. He noted that staff is asking for Board Feedback. He also noted that the contract is very complicated and didn't know if the level Vice Chair Nava is seeking was possible given that it would probably take contract amendments and those won't happen very quickly.

Vice Chair Nava stated that he thinks there should be a more direct tie between the revenue requirement and the actual billing that takes place.

Staff Feldman continued explaining overall diversion incentive and disincentive payments.

Vice Chair Nava asked if one agency recycles more than others, is there a benefit to the better recycler.

Staff Feldman answered that disincentive payments are apportioned based on solid waste tonnage. So if one agency is generating less solid waste than another, then the better recycling agency would get the benefit. He stated that agencies can see what the obligation for the 2012 incentive payment is in the February 2012 report.

Member Galli commented that the February incentive/disincentive report came out a couple of times, and wanted to clarify that the Board did have the final report.

Mario Puccinelli commented that the Agencies did have the final report

Staff Feldman continued with the presentation speaking about Agency Facility Costs.

Member Fotu asked for further detail and analysis on why Menlo Park's numbers are so high, noting that it's difficult to understand how 56 route labor hours leads to $220,000.

Staff Feldman noted that Member Fotu's comments are well received and requested the company dig into the details of both the positives and negatives to make this data more comfortable.

Vice Chair Nava asked for clarification because agency allocation numbers are different from what's in the staff report.

Staff Moran clarified that the numbers in the staff report are the numbers that are actually in last year's compensation application, the other numbers are how it will change for next year should the Board accept the numbers the way they stand now.

Vice Chair Nava questioned the agency fees, noting that he understood that the agency fees are a percentage of gross revenue, but when looking at the report, the fees seem to be based on what is actually billed not revenue.

Staff Moran answered that every agency has different types of fees. Some are fixed, and some are percentage of revenue. The process staff goes through is to estimate what the base revenue will be for 2013, and then apply agency fees to that. He also noted that staff plans to give the agencies information used to make the estimates, and asked for feedback to help Staff further develop the numbers.

Vice Chair Nava stated that the agency fee should be based on the billing not on the revenue requirement.

Member Murray asked about the difference of fiscal year versus calendar year agency revenue, and if the 6 month difference is accounted for.

Staff Moran answered that the July base revenue is used to project into the next fiscal year and based on that projection fees are calculated.

Staff Moran continued with the presentation discussing the process for setting tip fees, and a 5 year cost projection. He noted that there is not a specific formula for setting a tip fee. The total picture for the SBWMA operations is used to determine tip fee adjustments.

Vice Chair Nava asked if the expectation is that tonnage will go down.

Staff Moran answered that solid waste may, but organics or green waste may go up. He noted that staff plans to add subsequent year tonnage projection after there is Board feedback and input.

Executive Director McCarthy added that staff will add the data to those subsequent years on the cost projection model, but wanted to wait until there was at least 6 months of actual data for 2012. He added that if you look at the increase or decrease by jurisdiction there are astronomically different numbers by jurisdiction last year. The expectation is that the 2012 numbers will be much more stable, but there isn't enough actual data yet.

Member Fotu asked for clarification on how level of service is connected to labor hours. She specifically questioned how once the second year service level adjustment is done how that is tied to the total number of hours.

Staff Feldman noted there are two mutually exclusive thoughts. One is related to the allocation which is labor hours and lifts etc. The other is a service level adjustment based on a two year change in service levels. A service level change will affect the aggregate cost, of which the impact of that is then apportioned based on the cost allocation methodology. He noted that they are two separate things, but connected.

Member Fotu added that she sees how each agency can experience a loss or gain based on the final service level adjustment, but noted that if more businesses come to Menlo Park there would be more labor hours attributed to that so there is some recovery cost on the Recology side, so it seems like less of a risk for Recology.

Vice Chair Nava stated that in Burlingame the fixed price contract isn't working, so he suggested that the Board look at it again on an individual basis.

Staff Feldman noted that in 2008 Burlingame got a commercial service level adjustment in their favor.

Vice Chair Nava noted that the concern is that we keep raising rates and we're still in the hole, so something is wrong, and maybe the contract isn't working for us. So if the attorney is telling Burlingame we're free to negotiate as an individual agency, I would like to be able to tell the rest of the Board they can do the same thing.

Executive Director McCarthy asked the Board to wait and see how billed revenues come in this year. He noted that he thinks there are a lot of things moving in the right direction. He explained further that this is a cost projection model and on the cost side the costs trending down towards CPI. He stated than when this information is shared with elected officials it will be about what they expected. He also noted that costs are not revenues. We still have fundamentally flawed rates because rates don't cover the cost of service.

C. Commercial Recycling Workshop Proposed Next Steps

Executive Director McCarthy noted that the staff report highlighted items discussed at the Commercial Recycling Workshop.

Member Fotu requested further research on how to implement enforcement of Anti-Scavenging ordinances and how to fund them.

Staff Feldman stated that the report that will have a model ordinance attached and staff will survey other agencies that have ordinances like this in place to see how they are funding enforcement.

Executive Director McCarthy added that there will be some money in the budget to explore permitting 3rd party recyclers. The agency only knows what Recology collects, not overall diversion rate agency wide.

Member Fotu asked if there was a difference is diversion rates when the commodity market was higher versus lower.

Executive Director McCarthy answered that we looked at diversion rate history when markets have been high, and we didn't see marked difference in diversion.

Vice Chair Nava asked what motivates Recology to care if there is scavenging in their bins. Where does the Commodity Revenue come into play under the collections?

Executive Director McCarthy answered that it's in the performance incentives and disincentives related to sectors.

Member Murray asked if we have seen cardboard coming into the buyback center.

Dwight Herring stated that have been large loads of cardboard coming through.

D. Results of 2012 First Quarter Recology Franchise Agreement(s) Quarterly Contamination Measurement for Loads of Recyclable Materials, Organic Materials and Plant Materials

Staff Feldman gave an overview of the quarterly contamination measurement results for the first quarter of 2012, noting that page 2 table 2 says 2011 4th quarter and it should say 2012 1st quarter, but the content of the table is correct. He stated that Recology met the standards in 4 of the 5 categories. He also noted that the residential contamination target is now fixed for the life of the contract at 8.5%. He noted that there will be a disincentive payment associated with the residential recycling for the first quarter of 2012.

Vice Chair Nava asked what we are finding in the contamination.

Staff Feldman answered that there are a variety of material found; noting that a lot of what was found in the residential recycling stream was wet.

5. Old Business:

A. RSMC Franchise Agreement Operational and Contract Administration Update

Gino Gasparini gave an update on the Recology operations.

He also commented on the phone survey, noting that customers have been calling them to get more information after receiving a survey call.

Gino made note of the great Earth Day events, and great comments from people who came to the events.

B. SBR Shoreway Operational and Contract Administration Update

Dwight Herring noted that we've started to see cardboard come into the facility and are promoting that new service.

He also noted that SBR has hired an Interim site manager on a 90 day trial, his name is Saul San Filippo, and he has a lot of industry experience previously with Allied Waste.

6. Staff Updates

a) Update on Recology Commercial Recycling Outreach Efforts
b) Recycling and Outreach Programs Update
c) Shoreway Construction Update
d) Update on 2012/2013 Franchise Rate Setting Process
e) Preview of Upcoming Board meetings

7. Board Member Comments

8. Adjourn: 3:41 PM

Next Regular meeting scheduled for May 24, 2012, Recology San Mateo County Administrative Offices